

EXHIBIT 11

Excerpt from Deposition of
James Gray, III, PharmD

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF JAMES GRAY, III on 03/11/2016

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3 NEW ENGLAND COMPOUNDING) MDI NO. 2419
4 PHARMACY, INC., PRODUCTS) Master Dkt.
5 LIABILITY LITIGATION,) 1:13-MD-02419-RWZ
6 THIS PERTAINS TO:)
ALL ACTIONS)

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8
9 VIDEOTAPED DEPOSITION OF JAMES GRAY, III
10 TAKEN BY CHRIS J. TARDIO, ESQ.
11 ON BEHALF OF THE DEFENDANTS
12 MARCH 11, 2016

13 REPORTED BY SUSAN M. FIALA
14 REGISTERED PROFESSIONAL REPORTER
15 CERTIFIED SHORTHAND REPORTER
16 CERTIFIED COURT REPORTER
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1 (Exhibit 1322-1 marked for
2 identification.)

3 MR. TARDIO: So Exhibit 1322-1 is a
4 copy of his report.

5 Q. (By Mr. Tardio) And I -- as I
6 understand your opinion -- well, let me ask
7 this. Let me ask it more open ended. Is it
8 your opinion that it was a violation of the
9 standard of care for STOPNC to buy from a
10 compounding pharmacy, period, or to buy -- or it
11 was a violation of the compounding -- or was it
12 a violation of the standard of care to buy from
13 NECC in particular? Do you understand my
14 question?

15 A. Yes.

16 Q. Okay.

17 A. I do understand your question. The --
18 the problem was the purchase of product in bulk
19 without an individual patient prescription.

20 Q. Uh-huh.

21 A. A physician certainly has the right to
22 prescribe a compounded medication for his
23 patient. If that compounded medication is not a
24 -- is -- is -- is a copy of an FDA approved
25 product --

1 Q. Uh-huh.

2 A. -- the physician has the -- still has
3 the right to prescribe a compounded product on
4 the basis that the product would have a specific
5 advantage for his patient versus the FDA
6 product, and -- and it's okay to do that.

7 Q. So can we agree in -- in a general
8 sense it's not a violation of the standard of
9 care in and of itself to purchase from a
10 compounding pharmacy, right?

11 A. To pre -- to -- to -- on a
12 prescription, a prescription order for a
13 specific patient, it is not outside the standard
14 of care. If it's an FDA commercial product
15 that's being compounded, the physician needs to
16 have a medical reason to do that.

17 Q. So your -- your opinion is that so long
18 as the process is followed, the proper process,
19 it's not a violation in and of itself to buy
20 from a compounding pharmacy, right?

21 A. Correct. As long as the process is
22 followed and there's medical reason to do it,
23 yes.

24 Q. Is there anything inherently unsafe
25 about buying from a compounding pharmacy